A **Kerajaan Negeri Selangor v Suruhanjaya Pilihan Raya & Ors**

B COURT OF APPEAL (PUTRAJAYA) — CIVIL APPEAL NO W-01(A)-486–12 OF 2017
AHMADI ASNAWI, VERNON ONG AND ABDUL KARIM JJCA
23 JULY 2018

C *Administrative Law — Judicial review — Application for — Seeking to challenge proposed recommendations by Election Commission ('EC') in connection with its review of division of Federal and State constituencies in Selangor — Whether state government had necessary locus standi — Whether proposed recommendations subject to judicial review — Whether complaints of malapportionment and gerrymandering subject to judicial review — Whether complaint that Election Commission failed to use 'current electoral rolls' justiciable*

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In 2016, the Election Commission ('the EC') published a 'Notice of Proposed Recommendation for the Federal and State Constituencies in the States of Malaya as reviewed by the Election Commission in 2016' ('the notice') pursuant art 113(2) of the Federal Constitution ('the FC') and s 4 of the Thirteenth Schedule of the FC. The appellant applied, by way of judicial review to impugn the notice and this application was dismissed by the High Court on the grounds that: (a) the proposed recommendations issued by the EC did not have a binding effect and did not affect the appellant's rights; (b) when the review exercise commenced on 14 July 2016, the current electoral roll was the principal electoral rolls for the year 2015 ('the principal roll') published on13 May 2016. Neither the supplementary roll for the first quarter of 2019 ('the supplementary roll') nor the supplementary electoral roll for the first quarter of 2016 ('the second supplementary roll') had been published yet as at that date; (c) the correctness of an electoral roll, even where the roll might not completely record the address of all the electors in a unit of review could not be subject to any challenge in court; and (d) the information provided by the EC in its proposed recommendations published pursuant to the notice was not inadequate as to warrant curial intervention. Hence, the present appeal. The issues that arose for the court's adjudication were: (i) whether the appellant had the necessary locus standi; (ii) whether the proposed recommendations of the EC were subject to judicial review; (iii) whether the complaints of malapportionment and gerrymandering were subject to judicial review; (iv) whether the complaint that the EC failed to use the 'current electoral rolls' was justiciable; and (v) use of invalid rolls and insufficiency of information in the notice.

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Held, dismissing the appeal:

(1) Pursuant to O 53 of the Rules of Court 2012 ('the ROC'), only a person who is adversely affected by the decision, action or omission in relation to the exercise of a public duty shall be entitled to apply for judicial review. Section 5 of the Thirteenth Schedule lists out three persons who are vested with locus to object to the proposed recommendations and they include, inter alia, the state government. Therefore, the appellant had the locus standi to make the judicial review application. However, the notice and the proposed recommendations were not amenable to judicial review as they did not fall within the ambit of O 53 r 2(4) of the ROC (see paras 12–13).

(2) The proper forum for the objections of the complaints of malapportionment and gerrymandering were at the local inquiries. The acts or omissions of the EC related to these complaints were not amendable to judicial review (see para 14).

(3) The actual review process began much earlier, on 14 July 2016, on which the meeting was held at the secretariat of the EC. It would have been practical impossibility for the EC to commence the review and publish the notice on 15 September 2016. At that date the actual review commenced on 14 July 2016, the certified first or second supplementary electoral rolls had not come into existence, the current electoral rolls were the principal electoral roll. There was no merit in the appellant's argument that the EC was bound to use the principal, first and second electoral rolls (see paras 22 & 25).

(4) The correctness of an electoral roll could not be subject to any challenged in court even when the roll may not completely record the addresses of all the electors in a unit of review. Furthermore, the information provided by the EC in its proposed recommendations published under the notice was not inadequate as to warrant curial intervention (see paras 26–27).

[Bahasa Malaysia summary

Pada tahun 2016, Suruhanjaya Pilihan Raya ('SPR') telah menerbitkan 'Notis Cadangan Cadangan untuk Kawasan-Kawasan Persekutuan dan Negeri di Negeri-negeri Malaya seperti yang ditinjau oleh Suruhanjaya Pilihan Raya pada tahun 2016' ('notis') di bawah perkara 113(2) Perlembagaan Persekutuan ('PP') dan s 4 Jadual Ketiga Belas PP. Perayu memohon, melalui semakan kehakiman untuk menyangkal notis dan permohonan ini ditolak oleh Mahkamah Tinggi atas alasan: (a) cadangan yang dicadangkan oleh SPR tidak mempunyai kesan yang mengikat dan tidak menjejaskan hak perayu; (b) apabila semakan semula bermula pada 14 Julai 2016, daftar pemilih semasa adalah daftar pilihan utama untuk tahun 2015 ('daftar utama') yang diterbitkan pada 13 Mei 2016. Tidak ada daftar tambahan untuk suku pertama 2019 ('daftar tambahan') dan juga daftar pemilih tambahan untuk suku pertama 2016 ('daftar tambahan kedua') belum diterbitkan lagi pada tarikh itu;

A (c) ketepatan suatu daftar pemilih, walaupun daftar tersebut mungkin tidak mencatatkan sepenuhnya alamat semua pemilih dalam satu unit kajian tidak boleh dicabar di mana-mana mahkamah; dan (d) maklumat yang diberi oleh SPR dalam cadangan yang dicadangkannya yang diterbitkan menurut notis itu tidak cukup untuk menjamin campur tangan kurial. Oleh itu, rayuan ini.
B Isu-isu yang timbul untuk adjudikasi mahkamah ialah: (i) sama ada perayu mempunyai locus standi yang dikehendaki; (ii) sama ada cadangan yang dicadangkan oleh SPR tertakluk pada semakan kehakiman; (iii) sama ada aduan-aduan salah pembahagian dan penentuan sempadan pilihanraya tertakluk pada semakan kehakiman; (iv) sama ada aduan bahawa SPR gagal
C menggunakan 'daftar pilihan raya semasa' adalah wajar; dan (v) penggunaan daftar tidak sah dan kekurangan maklumat dalam notis tersebut.

Diputuskan, menolak rayuan:

D (1) Menurut A 53 Kaedah-Kaedah Mahkamah 2012 ('KKM'), hanya seseorang yang terjejas akibat keputusan, tindakan atau peninggalan berhubung dengan penjalanan tugas awam yang berhak memohon semakan kehakiman. Seksyen 5 Jadual Ketiga Belas menyenaraikan tiga orang yang mempunyai locus membantah cadangan yang dicadangkan
E dan ini termasuk, antara lain, kerajaan negeri. Oleh itu, perayu mempunyai locus standi membuat permohonan semakan kehakiman. Walau bagaimanapun, notis dan cadangan yang dicadangkan itu tidak tertakluk pada semakan kehakiman kerana kesemuanya tidak dalam lingkungan A 53 k 2(4) KKM (lihat perenggan 12–13).

F (2) Forum yang betul untuk mengemukakan bantahan aduan-aduan salah pembahagian dan penentuan sempadan pilihanraya adalah semasa inkuiri tempatan. Tindakan atau peninggalan SPR yang berkaitan dengan aduan-aduan ini tidak boleh dibuat melalui semakan kehakiman (lihat perenggan 14).

G (3) Proses sebenar semakan bermula lebih awal iaitu pada 14 Julai 2016, di mana pertemuan diadakan di sekretariat SPR. Adalah mustahak bagi SPR untuk memulakan semakan dan menerbitkan notis tersebut pada 15 September 2016. Pada tarikh semakan sebenar bermula pada 14 Julai
H 2016, daftar pilihan raya tambahan yang pertama atau kedua yang disahkan tidak wujud, daftar pilihan raya semasa adalah daftar pengundi utama. Tidak ada merit dalam hujah perayu bahawa SPR terikat untuk menggunakan daftar pilihan raya utama, pertama dan kedua (lihat perenggan 22 & 25).

I (4) Ketepatan gulung pilihan raya tidak boleh tertakluk pada mana-mana cabaran di mahkamah walaupun daftar ini tidak dapat merekod sepenuhnya alamat semua pemilih dalam satu unit semakan. Selain itu, maklumat yang diberi oleh SPR dalam cadangan yang dicadangkan yang diterbitkan di bawah notis tersebut tidak cukup untuk menjamin

campur tangan kurial (lihat perenggan 26–27).]

Notes

For cases on application for judicial review, see 1(1) *Mallal's Digest* (5th Ed, 2017 Reissue) paras 329–407.

Cases referred to

AC Jose v Sivan Pillai 1984 AIR 921, SC (refd)
Baker v Carr 369 US 186 (1962), SC (refd)
Browne and Others v Constituencies Boundaries Commission and Others [2014] 5 LRC 385, CA (refd)
Constituency Boundaries Commission and Another v Baron [2001] 1 LRC 25, CA (refd)
Digvijay Mote v Union of India (1993) 4 SCC 175, SC (refd)
Election Commission of India v Ashok Kumar 2000 AIR 2977, SC (refd)
Indira Gandhi a/p Mutho v Pengarah Jabatan Agama Islam Perak & Ors and other appeals [2018] 1 MLJ 545, FC (refd)
M Kula Segaran dan satu lagi lwn Suruhanjaya Pilihan Raya Malaysia dan lain-lain [2018] 4 MLJ 111; [2017] MLRAU 399, CA (refd)
Mat Shuhaimi bin Shafiei v PP [2014] 2 MLJ 145; [2014] 5 CLJ 22, CA (refd)
Mohinder Singh Gill v Chief Election Commissioner 1978 AIR 851, SC (refd)
Peguam Negara Malaysia v Chan Tsu Chong & Ors [2018] 1 MLJ 409, CA (refd)
Port Louis Corpn v A-G of Mauritius [1965] AC 1111, PC (refd)
R (on the application of Moseley) v Haringey London Borough Council [2015] 1 All ER 495, SC (refd)
R v Boundary Commission for England, ex parte Foot and others [1983] 1 All ER 1099, CA (refd)
Regina v North and East Devon Health Authority, Ex parte Coughlan [2001] QB 213, CA (refd)
Reynolds v Sims 377 US 533 (1964), SC (refd)
Semenyih Jaya Sdn Bhd v Pentadbir Tanah Daerah Hulu Langat and another case [2017] 3 MLJ 561, FC (refd)
Sivarasa Rasiah v Badan Peguam Malaysia & Anor [2010] 2 MLJ 333, FC (refd)
Wesberry v Sanders 376 US 1 (1964), SC (refd)

Legislation referred to

Elections Act 1958 ss 2, 4, 9, 9A, 15, 15(2)(c)
Elections (Registration of Electors) Regulations 2002 reg 9
Federal Constitution arts 10(1)(a), 113, 113(1), (2), (2)(iii), (9), 114, Parts IV, VIII, Thirteenth Schedule, ss 2, 2(c), (d), 4, 5, 6, 7, 8, 9
Rules of Court 2012 O 53, O 53 r 2(4)

Appeal from: Application for Judicial Review No WA-25–186–10 of 2016 (High Court, Kuala Lumpur)

Cyrus Das (Latheefa Koya with him) (Daim & Gamany) for the appellant.
Amarjeet Singh (Alice Loke, Suzana Atan, Shamsul Bolhassan, Azizan Md Arshad and Nik Azrin Zairin with him) (Senior Federal Counsel, Attorney General's Chambers) for the respondents.

Vernon Ong JCA:

INTRODUCTION

[1] On 15 September 2016, the EC published a 'Notice of Proposed Recommendation for the Federal and State Constituencies in the States of Malaya as reviewed by the Election Commission in 2016' ('the s 4 notice') pursuant to cl (2) of art 113 of the Federal Constitution and s 4 of the Thirteenth Schedule therein.

[2] The Selangor State Government applied by way of judicial review to impugn the s 4 notice containing the proposed recommendations of the Election Commission's ('EC') review of the division of the federal and state constituencies in Selangor. The application for judicial review was dismissed by the High Court on 7 December 2017. This is the Selangor State Government's ('the appellant') appeal against the decision of the High Court dismissing their application for judicial review.

[3] We heard arguments of counsel on 27 March 2018 and delivered our decision on 29 March 2018. The full grounds for our decision are set out hereunder.

AT THE HIGH COURT

[4] At the High Court, the appellants advanced four main grounds to challenge the s 4 notice:

(a) the proposed recommendations violated art 113(2) of the Federal Constitution, read together with paras (c) and (d) of s 2 of the Thirteenth Schedule to the Federal Constitution as it has resulted in malapportioned and gerrymandered constituencies in the State of Selangor;

(b) the proposed recommendations are not based on the current electoral rolls, as required by s 2 of the Thirteenth Schedule;

(c) the electoral roll used by the EC in the delimitation exercise is defective as there are 136,272 voters on the electoral roll in respect of which there are no addresses on the record of the roll; and

(d) there was inadequate information and insufficient particulars in the s 4 notice, which impaired the rights of voters to make meaningful representation in response to the notice and which made the right to make such representations merely illusory. As such, it violated the rules of natural justice and the legitimate expectation of voter in the State of Selangor, the local authorities and the government of the state.

[5] The decision of the learned judge is premised on the following main grounds:

(a) the allegations of malapportionment and gerrymandering of the constituency boundaries have been made out by the appellant. However, the exercise of the discretion of the EC to frame recommendations to the Prime Minister in exercise of its responsibilities under the Constitution is non-justiciable on the authority of *Peguam Negara Malaysia v Chan Tsu Chong & Ors* [2018] 1 MLJ 409 (CA); *M Kula Segaran dan satu lagi lwn Suruhanjaya Pilihan Raya Malaysia dan lain-lain* [2018] 4 MLJ 111; [2017] MLRAU 399 (CA). The proposed recommendations issued by the EC did not have binding effect and that as such did not affect the rights of the appellant;

(b) at the point when the review exercise commenced on 14 July 2016 the current electoral roll was the principal electoral rolls for the year 2015 ('the principal roll') published on 13 May 2016. Neither the supplementary electoral roll for the first quarter of 2019 ('the first supplementary roll') nor the supplementary electoral roll for the first quarter of 2016 (No 2) ('the second supplementary roll') had been published yet as at that date;

(c) the fact that the electoral roll relied upon by the EC for the purposes of its proposed recommendations in the s 4 notice did not record the addresses of all the electors in the State of Selangor is not in dispute. Nevertheless, the locality codes of an elector are sufficient in order for the EC to discharge its obligations under Part IV of the Federal Constitution. Under s 9A of the Elections Act 1958 ('the EA 1958') an electoral roll which has been certified or re-certified shall be deemed to be final and binding and shall not be questioned or appealed against or reviewed, quashed or set aside by, a court. Therefore, the correctness of an electoral roll even where the roll may not completely record the addresses of all the electors in a unit of review cannot be subject to any challenge in court (*Peguam Negara Malaysia v Chan Tsu Chong*); and

(d) on the facts, the information provided by the EC in its proposed recommendations published pursuant to the s 4 notice was not inadequate as to warrant curial intervention.

A SUBMISSION OF PARTIES

[6] On the first point relating to locus standi and justiciability learned counsel for the appellant argued that the learned judge having found that the allegation of malapportionment and gerrymandering was made out erred in holding that the actions of the EC were non-justiciable. Like all constitutional bodies, the EC is subject to law and must act within the mandate assigned to it under the Federal Constitution. The learned judge erred in following *Chan Tsu Chong* and *M Kula Segaran* (art 113(1) of the Federal Constitution; *R v Boundary Commission for England, ex parte Foot and others* [1983] 1 All ER 1099 at p 1102; *Mohinder Singh Gill v Chief Election Commissioner* 1978 AIR 851 (SC); *AC Jose v Sivan Pillai* 1984 AIR 921 (SC); *Digvijay Mote v Union of India* (1993) 4 SCC 175; *Election Commission of India v Ashok Kumar* 2000 AIR 2977 (SC); *Baker v Carr* 369 US 186 (1962); *Wesberry v Sanders* 376 US 1 (1964); *Reynolds v Sims* 377 US 533 (1964); *Constituency Boundaries Commission and Another v Baron* [2001] 1 LRC 25; *Semenyih Jaya Sdn Bhd v Pentadbir Tanah Daerah Hulu Langat and another case* [2017] 3 MLJ 561 (FC); *Indira Gandhi a/p Mutho v Pengarah Jabatan Agama Islam Perak & Ors and other appeals* [2018] 1 MLJ 545 (FC)). The appellant has the locus standi as it is the part of the unit of review which is most affected by the delimitation exercise since 18 of its 22 parliamentary constituencies are subject to a redrawing of electoral boundaries and a mass shifting of voters within the affected constituencies including the state constituencies that fall within the parliamentary constituencies (O 53 of the Rules of Court 2012 ('the ROC 2012')).

[7] On the second point relating to the EC's failure to use the current electoral rolls, learned counsel argued that the learned judge got the cut-off date for the commencement of the delimitation exercise wrong. The meeting on 14 July 2016 was not a meeting of the EC. It was an internal meeting chaired by the secretary of the EC; the secretary of the EC is not one of the seven members of the EC under art 114 of the Federal Constitution. The proper constitutional cut-off date is the date of the publication of the s 4 notice on 15 September 2017; as such the latest current electoral roll is the second supplementary roll.

[8] On the third point relating to the correctness of the electoral roll, learned counsel argued that it was wrong for the delimitation exercise to be conducted in the absence of addresses. The EC was also wrong to use the locality codes to conduct the delimitation exercises. Section 9A of the EA 1958 is not applicable to preclude the appellant from challenging the EC's conduct in proceeding with the delimitation exercise without having the address of 136,272 voters and using locality codes instead.

[9] Lastly, learned counsel argued that the s 4 notice has inadequate and insufficient particulars for voters to make meaningful representations in response and this has rendered their rights to make representations illusory. The legal standard of disclosure of information in a consultative process pursuant to arts 113 and 10(1)(a) of the Federal Constitution includes the right to receive information (*Sivarasa Rasiah v Badan Peguam Malaysia & Anor* [2010] 2 MLJ 333 at p 344; *Mat Shuhaimi bin Shafiei v Public Prosecutor* [2014] 2 MLJ 145 at pp 158–159; [2014] 5 CLJ 22 at p 39; *Port Louis Corpn v A-G of Mauritius* [1965] AC 1111 at pp 1124–1125 PC; *Regina v North and East Devon Health Authority, Ex parte Coughlan* [2001] QB 213 at p 258 (CA); *R (on the application of Moseley) v Haringey London Borough Council* [2015] 1 All ER 495 at pp 507 and 511–512; *Browne and Others v Constituencies Boundaries Commission and Others* [2014] 5 LRC 385 at p 400).

[10] In reply, learned senior federal counsel ('SFC') argued that the appeal was academic as the EC's proposed recommendations incorporated into a report under s 8 of the Thirteenth Schedule has been submitted to the prime minister to be laid before the house of representatives pursuant to s 9 of the Thirteenth Schedule. As such, the EC is no longer an affected party at this stage. The matter is within the exclusive jurisdiction of the prime minister and the house of representatives. As for the other issues, the learned SFC supported the findings of the learned judge and argued that the appeal should be dismissed.

DECISION

[11] For convenience, we set out hereunder the grounds of our decision.

Locus standi — O 53 of the ROC 2012

[12] Pursuant to O 53 only a person who is: (i) adversely affected by; (ii) the decision, action or omission in relation to the; (iii) exercise of a public duty or function shall be entitled to make the application for judicial review. Section 5 of the Thirteenth Schedule lists out three persons who are vested with locus to object to the proposed recommendations and they include; (i) the state government; or (ii) any local authority; or (iii) a body of 100 or more persons. As such we are of the view that the appellant being a state government has the locus standi to make the judicial review application.

Justiciability

Whether the proposed recommendations of the EC are subject to judicial review?

[13] We agree with the learned SFC that the notice and the proposed recommendations are not amenable to judicial review as they do not fall within the ambit of O 53 r 2(4) of the ROC 2012.

Whether the complaints of malapportionment and gerrymandering are subject to judicial review?

[14] We agree with the learned SFC that the proper forums for the objections of such complaints are at the local inquiries pursuant to s 5 of the Thirteenth Schedule. As such, we do not think that the acts or omissions of the EC relating to these complaints are amenable to judicial review. We also hold that notwithstanding the non-disputed allegations of malapportionment and gerrymandering, by virtue of s 9A of the Elections Act 1958, the principal electoral roll is final and binding and not amenable to judicial review.

Whether the complaint that the EC failed to use the 'current electoral rolls' is justiciable? If so, whether the complaint is made out.

[15] We agree with the observations of the learned judge that it is important to distinguish between the various specific duties of the EC under Part VIII of the Federal Constitution. Where the discharge of those duties involves the formulation of proposed recommendations and the exercise of its discretion to take into account the principles pursuant to s 2 of the Thirteenth Schedule, the actions of the EC are non-justiciable.

[16] However, in respect of other matters mandated by the terms of the Federal Constitution, such as the obligation to receive representations and objections from qualified persons and to hold local inquiries to hear and consider such representations and objections under s 5 of the Thirteenth Schedule, are subject to judicial review.

[17] In our considered view, the question of whether the EC used the current electoral rolls relates to the latter and is therefore amenable to judicial review.

[18] The appellant's argument is that the words 'current electoral roll' means the principal electoral roll for year 2015 (the principal roll) which was *gazetted* on 13 May 2016 and includes the supplementary electoral roll for the first quarter of 2016 *gazetted* on *19 July 2016* and the supplementary electoral roll for the first quarter of 2016 (No 2) *gazetted* on *20 July 2016 ('the first and second supplementary rolls')*. The determination of this issue turns on: (aa) the meaning of the words 'current electoral rolls'; and (bb) the date the EC's review exercise commenced.

(aa) the meaning of the words 'current electoral rolls'

[19] The words 'electoral rolls' is defined under s 2 of the Elections Act 1958 to mean an electoral roll prepared under s 9 which is as follows:

> 9 Preparation, publication and revision of electoral rolls.
>
> (1) Each Registrar shall prepare, publish and revise in the prescribed manner the prescribed electoral roll for the registration area for which he is appointed.
>
> (2) The electoral roll for Parliamentary electors and State electors, shall, unless the Election Commission shall otherwise direct, be combined in a single register.

[20] Section 9 of the Elections Act 1958 refers to a revision of electoral rolls. In this connection, s 15 empowers the EC to make regulations for the registration of electors and all matters incidental thereto; sub-s 15(2)(c) provides for the time and procedure to be followed in preparation or revision of any electoral roll. In this connection, it is also pertinent to note that reg 9 of the Elections (Registration of Electors) Regulations 2002 promulgated pursuant to s 15 of the Elections Act 1958 provides as follows:

> 9 Electoral roll for the purpose of general election or by-election
>
> For the purpose of a general election or a by-election, the Election Commission shall determine *the last certified principal electoral roll and the supplementary electoral roll* prior to the dissolution of parliament or a State Legislative Assembly or a vacancy occurring, to be used in the general election or the by-election. (Emphasis added.)

[21] It is quite clear from the provisions of reg 9 above that the electoral rolls include the last certified principal and supplementary electoral rolls. As it is the declared intention of the regulations that the last certified principal and supplementary electoral roll shall be used in general election or by-election, it follows that as the preparation of the electoral rolls is for the purpose of general election or by-election, any certified supplementary roll as at the commencement date of the review exercise should also be used. In the light of the foregoing, it is our considered view, the words 'current electoral rolls' includes the principal electoral roll and the first and second supplementary rolls.

(bb) the date the EC's review exercise commenced

[22] Learned SFC submitted that the review commenced on 14 July 2016 when the meeting was held at the secretariat of the EC. Learned counsel for the appellant argued that the review commenced on the date of the publication of the s 4 notice. In our view this is quite a straight forward point because it is stipulated in cl 9 of art 113 that the date of commencement of a review shall be the date of the publication in the *gazette* of the s 4 notice. Accordingly, we agree

with the appellant that the commencement date of the review falls on 15 September 2016.

[23] In this regard, learned SFC argued that it would be impracticable for the EC to use any supplementary electoral rolls which are published from time to time after the review exercise has commenced given the fact that the EC must in its s 4 notice set out the effect of their proposed recommendations and a copy of the same for inspection within the constituency. In short, at the date of the publication of the s 4 notice, the proposed recommendations must have been completed and open for inspection. In our view, this argument is not without merit.

[24] Section 5 of the Thirteenth Schedule provides for the EC to receive representations and hold local inquiries to hear and consider the representations and objections. The timeline of two years under art 113(2)(iii) runs from the date of the publication of the s 4 notice. Put another way, the EC is required to complete its task of receiving representations and objections and to hold local inquiries under ss 5, 6 and 7 of the Thirteenth Schedule within the two year timeline.

[25] We agree with the view posited by learned SFC as a contrary view would lead to an absurdity in that on the date of the publication of the s 4 notice the EC must have started the review process and at the same time publish its first set of proposed recommendations. As such, we agree with learned SFC that the actual review process began much earlier — on 14 July 2016 on which the meeting was held at the secretariat of the EC. It would have been a practical impossibility for the EC to 'commence the review' and publish the s 4 notice on 15 September 2016. As at that date the actual review commenced on 14 July 2016 the certified first or second supplementary electoral rolls had not yet come into existence; the current electoral rolls was the principal electoral roll. Accordingly, we find no merit in the appellant's argument that the EC was bound to use the principal, first and second supplementary electoral rolls.

Use of invalid roll and insufficiency of information in the s 4 notice

[26] In respect of these two issues, we are in agreement with the decision of the learned judge that pursuant to s 9A of the EA 1958 the correctness of an electoral roll cannot be subject to any challenge in court even when the roll may not completely record the addresses of all the electors in a unit of review.

[27] We are also in agreement with the findings of the learned judge that the information provided by the EC in its proposed recommendations published under s 4 notice was not inadequate as to warrant curial intervention.

Whether the appeal is academic?

[28] Having addressed and given careful consideration to the issues raised and in view of the foregoing, we do not think it is necessary to address this issue.

[29] The appeal is thereby dismissed.

Appeal dismissed.

Reported by Afiq Mohamad Noor